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SERVICE DATE – NOVEMBER 2, 2018

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 497 (Sub-No. 7X)

MINNESOTA NORTHERN RAILROAD, INC.—ABANDONMENT EXEMPTION—
IN NORMAN AND POLK COUNTIES, MINN.

Decided: November 1, 2018

Minnesota Northern Railroad, Inc. (MNN) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon approximately 5.8 miles of its “P Line” Subdivision between milepost 40.2 at the north end of the Marsh River Bridge, near Shelly, Minn., and milepost 46.0 at Second Street in Nielsville, Minn., in Norman and Polk Counties, Minn. (the Line). Notice of the exemption was served and published in the Federal Register on October 5, 2018 (83 Fed. Reg. 50,434). The exemption is scheduled to become effective on November 5, 2018.

The Board’s Office of Environmental Analysis (OEA) served an Environmental Assessment (EA) on October 12, 2018, recommending that one condition be imposed on any decision granting abandonment authority. In the EA, OEA stated that the National Geodetic Survey (NGS) advised OEA that there may be seven geodetic markers located within the area of the proposed abandonment. Accordingly, OEA recommended a condition requiring MNN to consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.

On November 1, 2018, OEA issued its final EA noting that it received one comment following issuance of the EA. As a result of this comment, OEA recommends one additional condition, as discussed below.

The Leech Lake Band of Ojibwe (the Band) submitted a comment stating that the Band does not have any known recorded sites of religious or cultural importance in the area of the proposed abandonment. However, the Band states that should any human remains or suspected human remains be encountered, all work shall cease and the County Sheriff’s Office and the Office of the State Archaeologist should be contacted immediately. The Band also requests that any future correspondence in this proceeding reference its LL-THPO Number 18-373-NCRI. Thus, OEA recommends imposing on any decision granting abandonment authority a condition requiring that, in the event that any unanticipated archaeological sites, human remains, funerary items, or associated artifacts are discovered during salvage activities, MNN shall immediately cease all work and notify the appropriate state agencies (including the Minnesota Office of the State Archaeologist), OEA, and the County Sheriff’s Office to determine whether appropriate mitigation measures are necessary.

Consistent with OEA's recommendations, this proceeding will be reopened, and the conditions recommended by OEA in the EA and final EA will be imposed.

This decision, and the proposed abandonment if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice served and published in the Federal Register on October 5, 2018, exempting the abandonment of the Line described above is subject to the following conditions:
 - (a) MNN shall consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers; and
 - (b) In the event that any unanticipated archaeological sites, human remains, funerary items, or associated artifacts are discovered during salvage activities, MNN shall immediately cease all work and notify OEA, interested federally recognized tribes, and the SHPO pursuant to 36 C.F.R. § 800.13(b). If human remains or suspected human remains are discovered, MNN shall also notify the County Sheriff's Office and Minnesota Office of the State Archeologist. In either case, OEA shall then consult with the SHPO, interested federally recognized tribes, the railroad, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.
3. This decision is effective on its date of service.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.